

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THEODORE SETTLES,

Petitioner,

Case Number: 06-10496

v.

HONORABLE AVERN COHN

BLAINE LAFLER,

Respondent.

_____/

ORDER RE: MOTION TO AMEND OBJECTION

I.

This is a habeas case under 28 U.S.C. § 2254. Petitioner Theodore Settles (Petitioner) is a state prisoner convicted of two counts of first degree criminal sexual conduct (CSC) and three counts of second degree CSC for which he is serving a sentence of 10-20 years on the first degree CSC convictions and 5-15 years on the second degree CSC convictions. Petitioner filed a pro se petition for a writ of habeas corpus claiming that he is incarcerated in violation of his constitutional rights. He specifically claimed that (1) he was deprived his right to counsel when the trial court failed to appoint substitute counsel to represent him, (2) he was deprived of the effective assistance of trial counsel because counsel failed to (a) properly conduct jury selection, (b) object to the late disclosure of discovery, (c) challenge the admission of the DNA evidence, (d) seek a probable cause hearing, (e) seek a defense expert, (f) object to irrelevant evidence, and (g) seek lesser included offense instructions.

The matter was referred to a magistrate judge for all proceedings, including preparation of a report and recommendation (MJRR). Petitioner filed several motions before the magistrate judge, including (1) a motion for additional Rule 6 materials, (2) a

motion to amend, and (3) a motion for discovery. On January 29, 2008, the magistrate judge issued an order denying the motions. Also on that date, the magistrate judge issued an MJRR in which he considered Petitioner's claims on the merits and recommends that the petition be denied. Petitioner objected to the MJRR. The Court found that the magistrate judge did not err in recommending that the petition be denied. Accordingly, the Court adopted the MJRR, denied Petitioner's motions, and dismissed the case. See Order filed February 21, 2008.

II.

Before the Court is Petitioner's paper styled "Petitioner's Motion to Amend Objection," in which he essentially argues that he is entitled to habeas relief on his claims. The Court construes Petitioner's paper as a motion for reconsideration of the Court's order denying him habeas relief. A motion for reconsideration which presents issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. See Hence v. Smith, 49 F. Supp. 2d 547, 550 (E.D. Mich. 1999). In this district, a party must show a palpable defect by which the Court has been misled or his burden of showing that a different disposition must result from a correction thereof. See E.D. Mich. LR 7.1(g)(3). Having carefully reviewed Petitioner's paper, he has failed to show that he is entitled to reconsideration. Petitioner essentially repeats the arguments considered and rejected by the magistrate judge and the Court in denying the petition. Accordingly, Petitioner's motion is DENIED.

SO ORDERED.

Dated: March 4, 2008

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record and Theodore Settles, 454484, St. Louis Correctional Facility, 8585 N. Croswell Road, St. Louis, MI 48880 on this date, March 4, 2008, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160